

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ROY J. JONES,
Petitioner

v.

Case No. 06C0967

WILLIAM POLLARD,
Respondent.

DECISION AND ORDER

On November 8, 2006, habeas petitioner Roy Jones filed a motion to proceed in forma pauperis so that he may avoid paying the appellate filing fee of \$455. Petitioner's motion to proceed in forma pauperis at the district court level was denied as moot because I summarily dismissed his case pursuant to Rule 4 of the Rules Governing § 2254 cases.

Title 28 U.S.C. § 1915(a)(1) authorizes the commencement of an appeal without prepayment of fees by a person who submits an affidavit that includes a statement of all assets he possesses and states that he is unable to pay such fees. Section 1915(a)(3) adds that an appeal may not be taken in forma pauperis if the district court certifies in writing that the appeal is not taken in good faith. "Good faith" is an objective standard. Coppedge v. United States, 369 U.S. 438, 446 (1962); Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000). An appeal is taken in "good faith" if it seeks review of any issue that is not clearly frivolous, Coppedge, 369 U.S. at 446; Lee, 209 F.3d at 1026, meaning that a reasonable person could suppose it to have at least some legal merit, Lee, 209 F.3d at 1026; Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). The existence of any non-frivolous issue on

appeal is sufficient to require the court to grant the petition for leave to proceed in forma pauperis. Dixon v. Pitchford, 843 F.2d 268, 270 (7th Cir. 1988). District courts must not apply an inappropriately high standard when making good faith determinations, and the denial of a certificate of appealability does not necessarily warrant denial of in forma pauperis status. Pate v. Stevens, 163 F.3d 437, 439 (7th Cir. 1998).

I will grant petitioner permission to appeal in forma pauperis. First, it appears from his supporting affidavit that he lacks the necessary funds. Second, although I found that petitioner's claims lacked merit when I denied his request for a certificate of appealability on November 6, 2006, I cannot conclude that they are frivolous.

For the foregoing reasons,

IT IS ORDERED that petitioner's motion to proceed on appeal in forma pauperis is **GRANTED**.

Dated at Milwaukee, Wisconsin, this 10 of November, 2006.

/s _____
LYNN ADELMAN
District Judge